

REMARKS-General

1. The newly drafted independent claims 33, 58, 66, 69, 77, and 80 incorporates all structural limitations of the original claim 1 and includes further limitations previously brought forth in the disclosure. No new matter has been included. All new claims 33 to 82 are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

Response to Rejection of Claims 31 under 35USC112

2. The applicant submits that the newly drafted claims 33 to 82 particularly point out and distinctly claim the subject matter of the instant invention, as pursuant to 35USC112.

Response to Rejection of Claims 1, 14-16, 19-21, and 23-31 under 35USC102(f).

3. The applicants respectfully withdraw the request for Continued Prosecution Application on April 11, 2002 is withdrawn and such request for CPA could not be established. The applicants respectfully submit that the inventive entity of the instant invention substantially invented the subject matter as set forth in the claims of the instant application, as pursuant to 35USC102(f).

Response to Rejection of Claims 1, 14, 15, 20, 21, 23-28 under 35USC103

4. Applicants acknowledge that the claims 16, 19 and 29-31 have not been rejected under 35USC103. As stated above, the claims 16, 19 and 29-31 is patentable under 35USC102(f) due to the fact that the applicants substantially invented the subject matter sought to be patented. Therefore, the original claims 16, 19 and 29-31 are allowable under 35USC103.

5. Therefore, the applicants respectfully submit that the newly drafted independent claims original claims 33, 58 and 66 are rewritten from the original claim 1 and include further limitations previously brought forth in the original allowable claims 16, 19 and 29. The dependent claims 67-68 are rewritten from the original allowable claims 30 and 31.

6. The Examiner rejected claims 1, 14, 15, 20, 21, 25-28 over Jordan (U.S. 3,3863,950) in view of Chao (U.S. 4,951,958) and rejected claims 23 and 24 over

Jordan in view of Chao and Hwang (U.S. 4,200,304), but these patents fail to suggest the invention of the newly drafted claims 33 to 82, including the following structural distinctive features:71,

(i) **a safety wheel assembly** comprising a frame and a wheel, wherein the safety wheel assembly is rotatably attached to the third end of the two-wheel propulsion means in such a manner that the safety wheel assembly is capable of rotating about a vertical axis relative to the third end while the wheel is rotatably attached to the frame of the safety wheel assembly so as to permit horizontal rolling of the wheel, wherein the safety wheel assembly being sized shaped and disposed in such a manner that the safety wheel assembly only comes into contact with a ground surface when the two-wheel propulsion means excessively tips reducing a distance between the third end of the two-wheel propulsion means and the ground surface;

(ii) **a removable forward vertical steering shaft support**, which has a first end and a second end, wherein the first end is detachably connected to the upper surface of the first end of the frame and the second end is detachably attached to the vertical steering shaft for facilitating free rotation of the vertical steering shaft about the vertical centerline axis;

(iii) **a safety bumper and brake means** which is attached to the lower surface of the second end of the frame aft the support wheel assembly so as to reduce a distance between a ground surface and the lower surface of the second end of the frame, so as to prevent excessive backward tipping of the rider-propelled wheeled vehicle on the wheels of the support wheel assembly and to function as a braking device by deliberately tipping the rider-propelled wheeled vehicle backwards to bring the safety bumper and brake means into frictional contact with the ground surface;

(iv) **a foot steering means** for attaching to a footwear of a rider, wherein the vertical steering shaft has a separation joint located above a rotatable connection through the first end of the frame, wherein when the separation joint is disconnected, a portion of the vertical steering shaft above the separation joint is removed and the foot steering means is attached to a remaining portion of the vertical steering shaft;

(v) **an aft foot holder** for attaching to the footwear of the rider, wherein the aft foot holder is attached to the upper surface of the frame near the second end;

(vi) the support wheel assembly being removed from the frame and the two-wheel propulsion means is replaced by a steering ski attached to the first end of the vertical steering shaft;

(vii) a pair of **foot stirrups** which are connected to opposite sides of the rider operable steering means;

(viii) a pair of **removable cantilevered foot pedals** which are connected on opposite sides of the vertical steering shaft, wherein by applying a rider foot force to each of said removable cantilevered foot pedal imparts a back and forth rotation about said vertical centerline axis of said vertical steering shaft required to steer and propel said rider-propelled wheeled vehicle forward;

(ix) the **vertical steering shaft** being a vertical telescoping extensible steering shaft that is capable of changing a distance between the first end and the second end thereof; and

(x) the vertical steering shaft comprises an outside shaft, which has a first end, a second end, an outer surface, and a hollow interior, and a plurality of concentrically ensleeved inside shafts each capable of being ensleeved by the outside shaft to make the vertical steering shaft telescopic, wherein the vertical steering shaft further comprises a locking means which is affixed to the second end of each the outside shaft to lock each corresponding ensleeved the inside shaft, each the inside shaft being capable of being locked into a predetermined telescopic extension length.

7. The Examiner appears to reason that since Jordan discloses a rider-propelled vehicle, it would have been obvious to one skilled in the art to modify Jordan's rider-propelled vehicle with the plural telescopic shafts as described in Chao as well as the transverse pole 3 as taught in Hwang. But this is clearly **not** a proper basis for combining references in making out an obviousness rejection of the present claims. Rather, the invention must be considered as a whole and there must be something in the reference that suggests the combination or the modification. See Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984) ("The claimed invention must be considered as a whole, and the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination"), In re Gordon, 221 U.S.P.Q. 1125,

1127 (Fed. Cir. 1984), ("The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.") In re Laskowski, 10 U.S.P.Q.2d 1397, 1398 (Fed. Cir. 1989), ("Although the Commissioner suggests that [the structure in the primary prior art reference] could readily be modified to form the [claimed] structure, "[t]he mere fact that the prior art could be modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.")

8. In the present case, there is no such suggestion. Jordan, Chao and Hwang perform very different types of vehicle. 7. Jordan describes a rider-propelled vehicle providing a U-shaped support with two wheels at two sides. Chao, on the other hand, discloses a **swingable skateboard** with two brake assemblies having a frame and a steering means comprising plural telescopic shafts wherein an actuator may be used to lock an inner and outer shaft to one another, the inner shaft being sized to fit within the outer shaft. Hwang teaches a riding vehicle including a handle 2 and a transverse pole 3 extended from the handle 2 for the driver's feet to rest thereon (as described in column 2, lines 5 to 6, in the specification).

9. In any case, even combining Jordan, Chao and Hwang would not provide the invention as claimed -- a clear indicia of nonobviousness. Ex parte Schwartz, slip op. p.5 (BPA&I Appeal No. 92-2629 October 28, 1992), ("Even if we were to agree with the examiner that it would have been obvious to combine the reference teachings in the manner proposed, the resulting package still would not comprise zipper closure material that terminates short of the end of the one edge of the product containing area, as now claimed.").

10. That is, modifying Jordan with Chao and/or Hwang, as proposed by the Examiner, would not provide any suggestion of: (i) providing safety wheel assembly that only comes into contact with a ground surface when the two-wheel propulsion means excessively tips reducing a distance between the third end of the two-wheel propulsion means and the ground surface; (ii) a removable forward vertical steering shaft support; (iii) a safety bumper and brake means that reduces the distance between the lower surface and the ground surface so as to prevent excessive backward tipping and function as a friction brake, wherein the resilient bumpers 25 of Jordan is a rear bumper for absorbing impacting force from behind; (iv) a foot steering means that is attached to

a remaining portion of the vertical steering shaft for attaching to a footwear of a rider; (v) an aft foot holder attached to the upper surface of the frame near the second end; (vi) a steering ski replacing the two-wheel propulsion means; (vii) foot stirrups connected to opposite sides of the rider operable steering means; (viii) removable cantilevered foot pedals for steering and propelling the vehicle forward; and/or (ix) a vertical telescoping extensible steering shaft.

11. Regarding to the rejection of the original claim 23 and 24 which are rewritten into the newly drafted claims 37-38, 40-41, 43-44, 46-51, 59-60, 62-63, 66-67, 70-71, 73-74, 77, and 80, the only mention of foot steering means, foot stirrups and removable cantilevered foot pedals for steering and propelling the vehicle forward are in applicants own specification and claims. Accordingly, it appears that the Examiner has fallen victim to the insidious effect of a hindsight analysis syndrome where that which only the inventor taught is used against the teacher in *W.L Gore and Associates v. Garlock, Inc.*, 220 USPQ 303, 312-313 (Fed. Cir. 1983) cert. denied, 469 U.S. 851 (1984).

12. Applicant believes that neither Jordan, Chao nor Hwang, separately or in combination, suggest or make any mention whatsoever of the structural distinctive features (i) to (x) as recited in claims 33 to 82.

The Cited but Non-Applied References

13. The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

14. Since there are 6 independent claims and a total of 50 claims are presented in the amended claims 33 to 82, a check an amount of US\$396.00 is submitted herewith to pay the additional filing fee for the additional 3 independent claims in excess of three and the additional 30 claims in excess of twenty. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 502111.

15. In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the objection and rejection are requested. Allowance of claims 33 to 82 at an early date is solicited.



16. Should the Examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this corresponding is being deposited with the United States Postal Service by First Class Mail, with sufficient postage, in an envelope addressed to "Box Amendments, Commissioner of Patents and Trademarks, Washington, DC 20231" on the date below.

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